

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

WILLIAM LEONARD, JR.

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Plaintiff,

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v.

* CASE NUMBER 3:05-cv-1015-MEF

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RELIASTAR LIFE INSURANCE
COMPANY f/k/a NORTHWESTERN
NATIONAL LIFE INSURANCE
COMPANY,

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Defendants.

PLAINTIFF'S MOTION FOR LEAVE TO REPLY TO
DEFENDANT'S MEMORANDUM IN OPPOSITION TO
PLAINTIFF'S RULE 56(F) MOTION TO CONTINUE

Plaintiff hereby moves this Court to grant Plaintiff leave to reply to Defendant ReliaStar Life Insurance Company's ("Defendant") Memorandum in Opposition to Plaintiff's Rule 56(f) Motion to Continue. In support of said motion, Plaintiff states the following:

On February 27, 2006, Plaintiff filed a Rule 56(f) Motion to Continue the setting of any scheduled response or hearing on Defendant's requested Motion for Summary Judgment. On March 1, 2006, the Court issued an order setting a deadline for Defendant to show cause in writing on or before March 8, 2006 as to why this motion [Plaintiff's Motion to Continue] should not be granted. The Court's Order did not address whether Plaintiff would be allowed to reply to Defendant's Response. Defendant subsequently filed their Memorandum in Opposition to Plaintiff's Rule 56(f) ("Response") on March 8, 2006.

Defendant has raised issues in their Response regarding Plaintiff's Motion to Continue and supporting affidavit for which Plaintiff requests the opportunity to refute in his Reply (Plaintiff's Reply and supporting affidavit is attached hereto as Exhibit "A"). Defendant calls into question the validity of Plaintiff's motive for filing his Motion to Continue. Also, Defendant's Response mischaracterizes the Plaintiff's need for the essential discovery specified by Plaintiff and the relevance of said areas of discovery in defeating Defendant's statute of limitations defense. Additionally, Defendant calls into question the sufficiency of Plaintiff's 56(f) affidavit. Defendant erroneously states that the areas of discovery specified in Plaintiff's Motion to Continue are not legitimate areas relevant to the statute of limitations or any other issue raised by Defendant in their Motion. Plaintiff respectfully requests this Court allow him the opportunity to reply, through case law, affidavit, and further analysis, to the issues raised in Defendant's Response, including, but not limited to, the statute of limitations, relevancy, and sufficiency issues. Plaintiff's Reply will clarify any mischaracterizations promulgated by Defendant in their Response and will provide additional insight into Plaintiff's need for the requested discovery and how the discovery will raise genuine issues of material fact to preclude summary judgment. For the reasons stated above, Plaintiff's Motion for Leave to Reply should be granted.

WHEREFORE, Plaintiff hereby moves the Court to grant Plaintiff's Motion for Leave to file his Reply to Defendant ReliaStar Life Insurance Company's Memorandum in Opposition to Plaintiff's Rule 56(f) Motion to Continue.

/s/ John E. Tomlinson
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CERTIFICATE OF SERVICE

I hereby certify that on the 10th of March, 2006 I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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